

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

ARTURO PEREZ and MARIA VIEIRA

Plaintiffs,

v.

WELLS FARGO BANK, N.A.; et al.,

Defendants.

3:12-cv-0106-LRH-WGC

ORDER

Before the court is defendants' motion to dismiss. Doc. #4.<sup>1</sup> Plaintiffs Arturo Perez and Maria Vieira (collectively "plaintiffs") did not file an opposition.

In August 2006, plaintiffs purchased real property through a mortgage note and deed of trust. Plaintiffs defaulted on the property and defendants initiated non-judicial foreclosure proceedings. Subsequently, plaintiffs filed a complaint against defendants. Doc. #1, Exhibit A. Thereafter, defendants filed the present motion to dismiss to which plaintiffs did not respond. Doc. #4.

While the failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion under LR 7-2(d), plaintiffs' failure to file an opposition, in and of itself, is an insufficient ground for dismissal. *See Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Before dismissing a case, a district court is required to weigh several

<sup>1</sup> Refers to the court's docket number.

1 factors: (1) the public's interest in the expeditious resolution of litigation; (2) the court's need to  
2 manage its docket; (3) the risk of prejudice to the defendant; 4) the public policy favoring  
3 disposition of cases on their merits; and (5) the availability of less dramatic sanctions. *Id.*

4 Here, these factors weigh in favor of dismissal. The need for the expeditious resolution of  
5 cases on the court's docket is strong. Defendants have an interest in resolving this matter in a timely  
6 manner. Further, there is a lack of prejudice to the plaintiffs because they have shown an  
7 unwillingness to continue litigating their complaint which weighs in favor of granting the motion.  
8 Additionally, although public policy favors a resolution on the merits, the court finds that dismissal  
9 is warranted in light of these other considerations.

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11 IT IS THEREFORE ORDERED that defendants' motion to dismiss (Doc. #4) is  
12 GRANTED. Plaintiffs' complaint (Doc. #1, Exhibit A) is DISMISSED in its entirety.

13 IT IS FURTHER ORDERED that defendant's motion to dismiss (Doc. #11) is DENIED as  
14 moot.

15 IT IS SO ORDERED.

16 DATED this 17th day of May, 2012.



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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE